

Contract Summary Sheet

Contract (PO) Number: 11352

Specification Number: 44575

Name of Contractor: SHUBERT HOTEL ASSOCIATES, LLC

City Department: PLANNING & DEVELOPMENT

Title of Contract: Redevelopment Agreement: Majestic Building

Term of Contract: Start Date: 9/30/2005

End Date: 12/31/2008

Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):
\$5,565,650.00

Brief Description of Work: Redevelopment Agreement: Majestic Building

Procurement Services Contract Area: COMPTROLLER-OTHER

Vendor Number: 50067862

Submission Date:

JAN 2 2008

designated as the developer for the Project and that D.P.D. be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Developer for the Project; now, therefore,

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. The above recitals are incorporated herein and made a part hereof.

SECTION 2. The Developer Parties are hereby designated as the developer for the Project pursuant to Section 5/ 1 1-74.4-4 of the Act.

SECTION 3. The Commissioner of D.P.D. (the "Commissioner") or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a redevelopment agreement between the Developer Parties and the City in substantially the form attached hereto as Exhibit A and made a part hereof (the "Redevelopment Agreement"), and such other supporting documents as may be necessary to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

SECTION 4. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 5. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6. This ordinance shall be in full force and effect immediately upon its passage and approval.

Exhibit "A" referred to in this ordinance reads as follows:

to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, Monroe Presentations, L.L.C. ("Monroe") has previously acquired the twenty (20) story building located at 22 West Monroe Street commonly known as the Majestic Building (the "Building"); and

WHEREAS, Monroe intends to vertically subdivide or otherwise separate ownership of the Building and thereafter sell to its affiliate, Shubert Hotel Associates, L.L.C. (the "Developer"), floors six (6) -- twenty (20) of the Building (the "Hotel Improvements") while retaining ownership of the underlying real property, the basement and the first five (5) floors of the Building (the "Theater Improvements"); and

WHEREAS, The Developer shall thereafter perform certain renovation and historic preservation work relating to the Shubert Theater, which is located in the Theater Improvements (the "Theater and Lobby Work") and certain renovation, historic preservation and life safety work relating to the Building's exterior wall and terra cotta facade (the "Exterior and Facade Work") (together with the Theater and Lobby Work, and certain related use and operations covenants, the "Theater Renovation Project"); and

WHEREAS, The Developer shall also convert the existing office space located in the top fifteen (15) floors of the Building into, and commence operations of, a hotel therein (such rehabilitation work, together with certain use and operations covenants, the "Hotel Conversion Project"); and

WHEREAS, The Developer and Monroe (the "Developer Parties") will be obligated to undertake the Project in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Developer and the City, such work to be financed in part by a portion of the proceeds of the City of Chicago General Obligation Bonds (Central Loop Redevelopment Project) Series 2003B (Taxable) or other legally available funds of the City; and

WHEREAS, Pursuant to Resolution 02-CDC-118 adopted by the Community Development Commission of the City of Chicago (the "Commission") on December 10, 2002, the Commission recommended that the Developer be

On motion of Alderman Burke, the said proposed ordinance transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

Yeas -- Aldermen Flores, Haithcock, Preckwinkle, Hairston, Lyle, Beavers, Stroger, Beale, Pope, Balcer, Cárdenas, Olivo, T. Thomas, Coleman, L. Thomas, Murphy, Rugai, Troutman, Brookins, Muñoz, Zalewski, Chandler, Solis, Ocasio, Burnett, E. Smith, Carothers, Reboyras, Suarez, Matlak, Mell, Austin, Colon, Banks, Mitts, Allen, Laurino, O'Connor, Doherty, Natarus, Daley, Tunney, Levar, Shiller, Schulter, M. Smith. Moore -- 47.

Nays -- None.

Alderman Beavers moved to reconsider the foregoing vote. The motion was lost.

Alderman Burke invoked Rule 14 of the City Council's Rules of Order and Procedure, disclosing that he had represented parties to this ordinance in previous and unrelated matters.

The following is said ordinance as passed:

WHEREAS, Pursuant to an ordinance adopted by the City Council ("City Council") of the City of Chicago (the "City") on February 7, 1997 and published at pages 38260 -- 38402 of the *Journal of the Proceedings of the City Council of the City of Chicago* (the "Journal") of such date, a certain redevelopment plan and project (as amended on May 17, 2000, and as further amended on July 9, 2003, the "Plan") for the Expanded North Loop Redevelopment Project Area (such expanded area, the "Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/ 11-74.4-1, et seq.) (the "Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on February 7, 1997 and published at pages 38400 and 38403 -- 38414 of the *Journal* of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance (the "T.I.F. Ordinance") adopted by the City Council on February 7, 1997 and published at pages 38412 and 38415 -- 38425 of the *Journal* of such date, tax increment allocation financing was adopted pursuant

12/17/2003

REPORTS OF COMMITTEES

15597

Authenticated By:

Registrar

AUTHORIZATION FOR EXECUTION OF REDEVELOPMENT
AGREEMENT WITH SHUBERT HOTEL ASSOCIATES,
L.L.C. FOR RENOVATION OF THE MAJESTIC
BUILDING AT 22 WEST MONROE STREET.

The Committee on Finance submitted the following report:

CHICAGO, December 17, 2003.

To the President and Members of the City Council:

Your Committee on Finance, having had under consideration an ordinance authorizing the commissioner of the Department of Planning and Development to enter into and execute a Redevelopment Agreement with Shubert Hotel Associates, L.L.C., having had the same under advisement, begs leave to report and recommend that Your Honorable Body Pass the proposed ordinance transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

Alderman Burke abstained from voting pursuant to Rule 14 of the City Council's Rules of Order and Procedure.

Respectfully submitted,

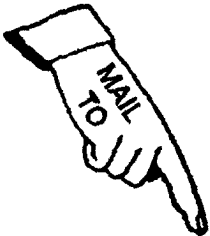
(Signed) EDWARD M. BURKE,
Chairman.



Doc#: 0531327039 Fee: \$316.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 11/09/2005 11:49 AM Pg: 1 of 147

SHUBERT THEATRE REDEVELOPMENT AGREEMENT

BY AND BETWEEN
THE CITY OF CHICAGO
AND
SHUBERT HOTEL ASSOCIATES, L.L.C.
AND
MONROE PRESENTATION, LLC



This agreement was prepared by
and after recording return to:
Patricia Carner, Esq.
City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602

NO1051220, NO1051607, NO1051608 + NO1051609 5 OF 20 - CM

Near North National Title
222 N. LaSalle
Chicago, IL 60601

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LIST OF EXHIBITS

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Exhibit B	Property Legal Description
Exhibit C	TIF-Funded Improvements
Exhibit D	*Redevelopment Plan
Exhibit E-1	Historic Preservation Work
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Exhibit J	Requisition Form
Exhibit K	Form of Junior Mortgage
Exhibit L	Public Benefits
Exhibit M	Schedule of Preapproved Hotels

(An asterisk(*) indicates which exhibits are not to be recorded.)

This agreement was prepared by and
after recording return to:
Patricia Carrier, Esq.
City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, Illinois 60602

SHUBERT THEATRE REDEVELOPMENT AGREEMENT

This Shubert Theatre Redevelopment Agreement (this "Agreement") is made as of this 30th day of September, 2005 by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Shubert Hotel Associates, L.L.C., an Illinois limited liability company (the "Developer"). Monroe Presentations, LLC, an Illinois limited liability company ("Monroe"), has also executed this Agreement for purposes of making certain representations, warranties and covenants, and agreeing to certain City rights and remedies under this Agreement, as more particularly described herein. Capitalized terms not otherwise defined herein shall have the meaning set forth in Section 2.

RECITALS

A. Constitutional Authority: As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions and conservation area factors through

the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on February 7, 1997: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Central Loop Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Central Loop Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Central Loop Redevelopment Project Area" (the "TIF Adoption Ordinance"), (collectively referred to herein as the "TIF Ordinances"). The redevelopment project area referred to above (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Redevelopment Project: As of the date of introduction of this Agreement to the City Council, Monroe Hotel, LLC, an Affiliate of Monroe, owns 60% of the Developer's membership interests and Northern Shubert Hotel Associates, LLC owns 40% of the Developer's membership interests. On or prior to the closing date under this Agreement, the Developer shall purchase from Monroe a portion of certain property located within the Redevelopment Area at 22 West Monroe Street, Chicago, Illinois 60602 and legally described on Exhibit B hereto (the "Property"), on which is located a 20-story building known as the Majestic Building (the "Building"). Monroe and the Developer shall vertically subdivide the Property and Building or otherwise separate ownership of the Building so that, after such subdivision or separation, the Developer shall acquire and thereafter own floors 4-20 of the Building (the "Hotel Improvements") and Monroe shall retain ownership of the underlying real property, the basement and the first five floors of the building (the "Theatre Improvements").

Within the time frame set forth in Section 3.01 hereof, the Developer (or, with respect to Theater Improvements, Monroe, if Monroe and Developer so agree, in which case the applicable representations, warranties and covenants related to such work shall be revised accordingly) shall perform the following redevelopment work in substantial accordance with the Plans and Specifications approved by DPD pursuant to this Agreement: (i) the renovation of the Shubert Theatre, an approximately 2,000-seat performing arts theater (the "Shubert Theatre") located in the Theatre Improvements, including, but not limited to, renovations to the lobby space and support areas, the public toilet rooms, concession areas, office support spaces, cleaning, repainting and re-leasing of all gold and aluminum architectural details, if any, the removal of the outer lobby ceiling to reclaim the original two-story vintage decor and the historic preservation work specified on Exhibit E-1 (the "Theatre and Lobby Work"); and (ii) exterior wall and terra cotta facade restoration, the construction of an exterior fire-staircase on the east side of the entire Building and cantilevered over the existing alley and the historic preservation work specified on Exhibit E-1 (the "Exterior and Facade Work"). The Theatre and Lobby Work and Exterior Facade Work for which tax increment financing assistance is being provided (including, but not limited to, those TIF-Funded Improvements as defined below and set forth on Exhibit C), together with the associated covenants

set forth in this Agreement, are sometime referred to herein as the "Theatre Renovation Project."

Within the time frame set forth in Section 3.01 hereof, the Developer shall also convert the existing office space located in the top 15 floors of the Building into, and commence operations of, a hotel therein (such project, together with the associated covenants set forth in this Agreement, the "Hotel Conversion Project").

All City Funds paid hereunder shall go to pay or reimburse the Developer for costs associated with the Theatre Renovation Project. No City Funds shall be paid for the Hotel Conversion Project, but completion of the Hotel Conversion Project is a condition precedent to the payment of \$1,500,000 of City Funds to the Developer. The Theatre Renovation Project and the Hotel Conversion Project are sometimes collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project shall be carried out in accordance with this Agreement and the City of Chicago Central Loop Tax Increment Financing Redevelopment Plan and Project (the "Redevelopment Plan") attached hereto as Exhibit D, as amended from time to time.

F. City Financing: The City agrees to use, in the amounts set forth in Section 4.03 hereof, a portion of the proceeds of its City of Chicago General Obligation Bonds (Central Loop Redevelopment Project) Series 2003B (Taxable) (collectively, the "Bonds" and the "Bond Proceeds"), or other legally available funds of the City, to pay for or reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this agreement by reference.

SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

"Act" shall have the meaning set forth in Recital B of this Agreement.

"Affiliate" shall mean Broadway, Windy City Broadway, LLC, Laurence Amusement, LLC, Nederlander Company, LLC, Northern Shubert Hotel Associates, LLC, Monroe Hotel, LLC, Northern Majestic Hotel, LLC, 22 West Monroe Theatre, LLC, Northern Realty Investment Fund I, LLC, LR Hotel, LLC, MP Hotel, LLC, First CTD, LLC and any other person or entity employed by, compensated by or directly or indirectly controlling, controlled by or under common control with the Developer, Monroe or any of the aforementioned entities or persons.

"Bond Ordinance" means that certain ordinance adopted by the City Council of the City on July 9, 2003 authorizing the issuance of the Bonds.

"Bond Proceeds" shall have the meaning set forth in Recital F of this Agreement.

"Bonds" shall have the meaning set forth in Recital F of this Agreement.

"Broadway" shall mean Broadway In Chicago, LLC, an Illinois limited liability company.

"Building" shall have the meaning set forth in the Recital D of this Agreement.

"Change Order" shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in Section 3.03, Section 3.04 and Section 3.05, respectively.

"City Council" shall have the meaning set forth in Recital C of this Agreement.

"City Funds" shall mean the funds described in Section 4.03(b) hereof.

"Closing Date" shall mean the date of execution and delivery of this Agreement by all parties hereto, which shall be deemed to be the date appearing in the first paragraph of this Agreement.

"Construction Contract" shall mean that certain contract to be entered into between the Developer and the General Contractor providing for construction of the Project.

"Corporation Counsel" shall mean the City's Office of Corporation Counsel.

"Employer(s)" shall have the meaning set forth in Section 10 hereof.

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response,

Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called Superfund” or Superlien” law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago.

“Equity” shall mean contributed and unreturned capital contributions made pursuant to Developer’s operating agreement and such other funds of the Developer (other than funds derived from Lender Financing or Mezzanine Financing) as the City, in its sole discretion, may consider equity irrevocably available for the Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.06 (Cost Overruns) or Section 4.03(b).

“Escrow” shall mean the construction escrow established pursuant to the Escrow Agreement.

“Escrow Agreement” shall mean the Escrow Agreement establishing a construction escrow, to be entered into by the Title Company (or an affiliate of the Title Company), the Developer and the Developer’s lender(s).

“Event of Default” shall have the meaning set forth in Section 15 hereof.

“Exterior and Facade Work” shall have the meaning set forth in Recital D hereof.

“Fifth Anniversary Date” shall mean (a) with respect to the covenants in Sections 4.03(b), 8.20, 8.21(a), 8.22(a) and 8.23 applicable to the Theatre Improvements, the date that is five years after the Theatre Operations Commencement Date, and (b) with respect to the covenants in Sections 8.21(b) and 8.22(b) applicable to the Hotel Improvements, the date that is five years after the Hotel Operations Commencement Date.

“Final Certificate” shall mean the Certificate of Completion described in Section 7.01 hereof.

“Financial Statements” shall mean complete financial statements of the Developer, Monroe and any guarantors prepared by a certified public accountant in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods, or, if any such party does not customarily prepare such financial statements, such other financial statements as are customarily prepared by such entities and are reasonably acceptable to DPD.

“General Contractor” shall mean the general contractor(s) hired by the Developer pursuant to Section 6.01.

“Green Roof Work Costs” shall mean the actual costs (without any mark-up, overhead, general conditions, fees, profits or other ancillary costs, except to the extent included within the costs charged by the contractors and vendors providing labor or materials in connection with the Green Roof Work) incurred by the Developer in (a) completing such feasibility studies, structural analyses, and engineering reports as may be necessary to determine the feasibility of installing a “green roof” on the Building, and, if the City and Developer jointly determine pursuant to Section 4.03(c) hereof that installing a “green roof” is practicable, (b) constructing and installing the “green roof” on the Building, all in accordance with Section 4.03(c) hereof.

“Guarantee” shall mean the guarantee of one or more direct or indirect owners of Monroe having a creditworthiness reasonably acceptable to DPD, in a form acceptable to the Corporation Counsel guaranteeing certain of the performance and repayment obligations of Monroe under this Agreement or such other security guaranteeing said performance and payment obligations as may be acceptable to the Corporation Counsel.

Hazardous Materials” shall mean any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

“Hotel Junior Mortgage” shall mean a Junior Construction Mortgage substantially in the form of Exhibit K, with such changes required by a senior lender as may be reasonably approved by DPD and the Corporation Counsel, executed by the Developer as, mortgagor, in favor of the City, as mortgagee, securing certain of the Developer’s performance and repayment obligations under this Agreement with respect to the Hotel Improvements. The Hotel Junior Mortgage shall only be acceptable to the City if, as of the date of the City’s payment pursuant to Section 4.03(b)(iii), the appraised value of the Hotel Improvements to be constructed, less the principal indebtedness secured by any senior lender mortgage, is greater than or equal to \$1,500,000.

“Hotel Operations Commencement Date” shall mean the date on which both (i) the Hotel Conversion Project is substantially complete (even if the Final Certificate has not yet issued), which shall be deemed to be the case so long as at least 90% of the costs associated with such work have been incurred and the Hotel Improvements may be lawfully occupied for hotel purposes, and (ii) hotel operations actually commence.

Lender Financing” shall mean funds borrowed by the Developer from lenders and irrevocably available to pay for costs of the Project, in the amount set forth in Section 4.01 hereof.

“Letter of Credit” shall mean an irrevocable, standby direct pay letter of credit naming the City as the beneficiary in the amount of (a) upon the issuance of the first Partial Completion Certificate related to the Theater Renovation Project, \$2,000,000, and (b) upon the issuance of the

second Partial Completion Certificate related to the Theater Renovation Project, the aforesaid amount shall be increased by \$2,000,000 to a total of \$4,000,000. The Letter of Credit shall be in a form acceptable to the Corporation Counsel, and secure certain of the performance and repayment obligations of Monroe under this Agreement.

MBE(s) shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a minority-owned business enterprise.

"MBE/WBE Budget" shall mean the budget attached hereto as Exhibit G-2, as described in Section 10.03.

"Mezzanine Lender Financing" shall mean funds borrowed by the Developer from lenders and irrevocably available to pay for costs of the Project, in the amount set forth and as described in Section 4.01 hereof.

Municipal Code shall mean the Municipal Code of the City of Chicago.

"Naming Rights Agreement" shall mean any agreement, whether written or oral, pursuant to which the Developer, Monroe, any Affiliate or any other person or entity becomes entitled to receive any payment, credit or other consideration in exchange for any sponsorship, naming, promotional, or advertising rights to the Theatre Improvements, the Shubert Theatre, or any portion thereof. Examples of such naming rights agreements, include, without limitation, the agreements applicable to other Loop theaters such as the "Cadillac Palace Theater" and "Ford Oriental Theater."

Non-Governmental Charges shall mean all non-governmental charges, liens, claims, or encumbrances relating to the Developer, the Property, the Project, or any portion thereof.

"Partial Completion Certificate" shall mean the separate certificates of partial completion that the City shall issue upon the Developer's written request upon the Developer's (i) completion of the Theatre and Lobby Work, (ii) completion of the Exterior and Facade Work, and (iii) incurrence of its final Green Roof Work Costs.

Permitted Liens shall mean those liens and encumbrances against the Property and/or the Project set forth on Exhibit F hereto.

Plans and Specifications shall mean final construction documents containing a site plan and working drawings and specifications for the Project, including, without limitation, signage, as submitted to the City as the basis for obtaining building permits for the Project.

Prior Expenditure(s) shall have the meaning set forth in Section 4.05(a) hereof.

Project Budget" shall mean the budget attached hereto as Exhibit G-1, showing the total cost of the Project by line item, furnished by the Developer to DPD, in accordance with Section 3.03 hereof.

Property" shall have the meaning set forth in the Recital D of this Agreement.

Redevelopment Area" shall have the meaning set forth in Recital C of this Agreement.

Redevelopment Plan" shall have the meaning set forth in Recital E of this Agreement.

"Redevelopment Project Costs" shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

"Reimbursement Event" shall mean an act or omission of the Developer, Monroe or either party's Affiliates resulting in an Event of Default arising directly from: (i) a material and intentional misrepresentation to the City related to the Project; (ii) a fraudulent act or omission related to the Project; (iii) a material and intentional misappropriation of funds from the uses set forth in the Project Budget resulting in the receipt by the Developer, Monroe or either party's Affiliates of additional fees, commissions or compensation not disclosed in such Project Budget or otherwise approved in writing by DPD; (iv) any intentional or material waste to the Property; (v) use of the City Funds for payment or reimbursement of amounts other than the cost of TIF-Funded Costs in breach of Section 8.05; (vi) a breach of the sale, refinancing, assignment and other provisions in Section 8.01(d) or (j) or Section 18.15; (vii) the occurrence of any material casualty event with respect to the Project; or any portion thereof, but only if not insured as required by Section 12 of this Agreement; (ix) the material misappropriation or misapplication of insurance proceeds or condemnation awards relating to the Property; (x) any material misrepresentation in any Economic Disclosure Statements and Affidavit submitted in connection with the Project; (xi) any receipt of City Funds after the occurrence of an Event of Default (or circumstances which, if known to the City, would give rise to an Event of Default); or (xii) a breach of Section 8.01(l) or Section 18.22.

"Requisition Form" shall mean the document, in the form attached hereto as Exhibit J, to be delivered by the Developer to DPD pursuant to Section 4.04 of this Agreement.

"Scope Drawings" shall mean those certain plans prepared by Booth Hansen Architects, entitled Majestic Building Shubert Theater, consisting of Sheet Nos. 1.0 through 1.7 and 2.0 through 2.5, dated May 21, 2002 depicting existing conditions and proposed plans for the redevelopment project.

"Survey" shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered

in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Building and related improvements as required by the City or lender(s) providing Lender Financing).

"Term of the Agreement" shall mean the period of time commencing on the Closing Date and ending December 31, 2008 or such earlier termination of this Agreement as provided for herein.

"Theatre and Lobby Work" shall have the meaning set forth in Recital D of this Agreement.

"Theatre Improvements Security Instrument" shall mean either (a) a Guarantee, in form and substance acceptable to the City, in its sole discretion, (b) a Letter of Credit, or (c) a Theatre Junior Mortgage. Provided the Theatre Improvements Security Instrument is one of the foregoing, Monroe shall have the right to select which form of security instrument it shall provide in satisfaction of such security requirement.

"Theatre Junior Mortgage" shall mean a Junior Construction Mortgage substantially in the form of Exhibit K, but revised to encumber the Theatre Improvements and secure the secured obligations related to the Theatre Renovation Project, with such additional changes as may be required by a senior lender as are reasonably approved by DPD and the Corporation Counsel, executed by the Developer as, mortgagor, in favor of the City, as mortgagee, securing certain of Monroe's performance and repayment obligations under this Agreement with respect to the Theatre Improvements. The Theatre Junior Mortgage shall only be an acceptable Theatre Improvements Security Instrument if as of the date of the City's payment under either Section 4.03(b)(i) or Section 4.03(b)(ii), whichever occurs first, the appraised value of the Theatre Improvements to be constructed, less the principal indebtedness secured by any senior lender mortgage, is greater than or equal to \$4,000,000.

"Theatre Operations Commencement Date" shall mean the date on which both (i) the Theatre and Lobby Work is substantially complete (even if the corresponding Partial Completion Certificate has not yet issued), which shall be deemed to be the case so long as at least 90% of the costs associated with such work have been incurred and the may be lawfully occupied for public theatrical productions, and (ii) Monroe stages its first Theatrical Production having a scheduled run of at least one week in such substantially completed space.

Theatre Renovation Project" shall have the meaning set forth in Recital D of this Agreement.

"Theatre Uses" shall mean any performance, presentation, exhibition, enactment, representation, display or other expressive or communicative use of the Theatre Improvements,

including, without limitation, Theatrical Productions, but also including concerts, lectures, speeches, film and multimedia showings and other similar uses.

“Theatrical Productions” shall mean theatrical productions reasonably comparable to those historically staged at the Shubert Theatre, including, without limitation, Broadway-type musicals and plays, performance art productions (such as, for example, Blue Man Group), and other live, public theatrical performances requiring paid admission.

“TIF Adoption Ordinance” shall have the meaning set forth in Recital C of this Agreement.

“TIF-Funded Improvements” shall mean those improvements related to the Theatre Renovation Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. Exhibit C lists the TIF-Funded Improvements approved by the City for the Theatre Renovation Project.

“TIF Ordinances” shall have the meaning set forth in Recital C of this Agreement.

“Title Company” shall mean Near North National Title Corporation.

“Title Policy” shall mean an ALTA mortgagee’s loan policy of title insurance issued by the Title Company showing fee simple title to the Hotel Improvements in the Developer and fee simple title to the Theatre Improvements in Monroe, and insuring the validity and priority of the City’s second mortgage lien on the Hotel Improvements. The Title Policy shall note the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any.

“WARN Act” shall mean the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

“WBE(s)” shall mean a business identified in the Directory of Certified Women Business Enterprises published by the City’s Department of Procurement Services, or otherwise certified by the City’s Department of Procurement Services as a women-owned business enterprise.

SECTION 3. THE REDEVELOPMENT PROJECT

3.01 The Redevelopment Project. Prior to the Closing Date, the Developer has made application to the Department of Construction and Permits for the requisite permits required to complete the Theatre Renovation Project and the Hotel Renovation Project. The Developer shall, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof, (a)

complete the rehabilitation work associated with the Theatre Renovation Project and, in cooperation with Monroe, cause the Theatre Operations Commencement Date to occur no later than eighteen (18) months following issuance of the permits necessary to commence the Theatre Renovation Project, and (b) complete the rehabilitation work associated with the Hotel Conversion Project and cause the Hotel Operations Commencement Date to occur no later than twenty-four (24) months following issuance of the permits necessary to commence the Hotel Conversion Project.

3.02 Scope Drawings and Plans and Specifications. The Developer has delivered the Scope Drawings and Plans and Specifications to DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit any additional documents to the City's Department of Construction and Permits, Department of Transportation and such other City departments, the Commission on Chicago Landmarks, or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 Project Budget. The Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project of Forty Million Four Hundred Seventy-Three Thousand and No/100 Dollars (\$40,473,000). The Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing and Equity described in Section 4.01 hereof, shall be sufficient to complete the Project and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

3.04 Change Orders. Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DPD concurrently with the progress reports described in Section 3.07 hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval, which approval shall be in DPD's sole discretion: (a) a reduction in the square footage of the Building by more than 5%; (b) a change in the scope or character of the Theatre and Lobby Work or the Exterior and Facade Work; (c) a delay in the completion of any required action enumerated in Section 3.01 by more than 120 days; or (d) Change Orders costing more than \$100,000 each, to an aggregate amount of \$500,000. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval (to the extent required in this section).

3.05 DPD Approval. Any approval granted by DPD of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DPD pursuant to this

Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

3.06 Other Approvals. Any DPD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. The Developer shall not commence construction of the Project (or, if construction is done on a phased basis, the applicable phase thereof) until the Developer has obtained all necessary permits and approvals (including but not limited to DPD's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder (as applicable to any phase).

3.07 Progress Reports and Survey Updates. The Developer shall provide DPD with written monthly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.04), and including the following: a) Escrow disbursement reports; b) owner's sworn statements; c) General Contractor's sworn statements; d) partial or final waivers-of-lien; e) all inspecting architect reports; and f) invoices, receipts and canceled checks for expenditures not disbursed from the Escrow. The Developer shall provide three (3) copies of an updated Survey to DPD upon the request of DPD or any lender providing Lender Financing, reflecting improvements made to the Property.

3.08 Inspecting Agent or Architect. An independent agent or architect (which the City agrees shall be the inspecting architect for the lender providing the Lender Financing, provided such inspecting architect is reasonably acceptable to DPD) shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Theatre Renovation Project. The inspecting agent or architect shall perform periodic inspections with respect to the Theatre Renovation Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Theatre Renovation Project hereunder.

3.09 Barricades. Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DPD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 Signs and Public Relations. The Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Project, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

3.11 Utility Connections. The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 Permit Fees. In connection with the Project, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago. Notwithstanding Chapter 2-120-815 of the Municipal Code, no fee waivers will be provided with respect to any landmark or historic preservation work.

SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$40,473,000, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Sections 4.03(b) and 4.06</u>)	\$ 7,435,000
Lender Financing and Mezzanine Financing	27,473,000
City Funds (subject to <u>Section 4.03</u>)	5,500,000
ESTIMATED TOTAL	\$ 40,473,000

The Developer may reduce the Lender Financing and/or Mezzanine Financing through additional equity raised by a syndication of historic tax credits, a facade easement donation or through other sources. City Funds are subject to increase by up to an additional \$250,000 as described in Section 4.03(b) and by another additional \$250,000 as described in Section 4.03(c).

4.02 Developer Funds. Subject to the City's reimbursement payments pursuant to Sections 4.03(b) and (c), Equity, Mezzanine Lender Financing and/or Lender Financing shall be initially used to pay all Project costs, including but not limited to Redevelopment Project costs and costs of TIF-Funded Improvements.

4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse the Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Theatre Renovation Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Section 4.03(b) and Section 4.05(d)), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost. The Developer may provide, and the City will comply with, written

instructions to the City to pay City Funds to a specified third party payee.

(b) Sources of City Funds Subject to the terms and conditions of this Agreement, including, but not limited to, this Section 4.03 and Section 5 hereof, the City hereby agrees to provide City funds from Bond Proceeds or other legally available funds of the City (the "City Funds") to pay for or reimburse the Developer for the costs of TIF-Funded Improvements as follows:

- (i) within thirty (30) days following the latest to occur of (A) completion of the Theatre and Lobby Work, as evidenced by the issuance of a Partial Completion Certificate, (B) the occurrence of the Theatre Operations Commencement Date, and (C) delivery of the Theatre Improvements Security Instrument to the City in the amount of \$2,000,000, the City shall pay the Developer \$2,000,000 from Bond Proceeds or other legally available funds;
- (ii) within thirty (30) days following the latest to occur of (A) completion of the Exterior and Facade Work, as evidenced by the issuance of a Partial Completion Certificate, and (B) delivery of an additional Theatre Improvements Security Instrument to the City (or an amendment to any such previously delivered instrument) increasing the total amount of the security to \$4,000,000, the City shall pay the Developer \$2,000,000 from Bond Proceeds or other legally available funds; and
- (iii) within thirty (30) days following the latest to occur of (A) completion of the Hotel Conversion Project, and (B) occurrence of the Hotel Operations Commencement Date, as evidenced by the issuance of a Final Certificate, the City shall pay the Developer \$1,500,000 from Bond Proceeds or other legally available funds;

provided, however, that, subject to the next paragraph and Section 4.03(c), the total principal amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed the lesser of Five Million Five Hundred Thousand Dollars (\$5,500,000) or twenty-two and one-one hundredth percent (22.01%) of the actual total Project costs.

Notwithstanding the \$5,500,000 limitation set forth above, if on the date the City issues its Final Certificate pursuant to Section 7.01 of this Agreement, or within three (3) months of such date, Monroe delivers (x) its written certification to the City that no Naming Rights Agreement has yet been entered into, and (y) evidence of expenditure of the Developer's incurrence of an additional \$250,000 in costs for TIF-Funded Improvements, the City shall pay an additional \$250,000 in City Funds to the Developer. If such certification occurs and the City makes such payment, and thereafter at any time prior to the Fifth Anniversary Date, any Naming Rights Agreement is entered into, Monroe shall promptly reimburse the City \$250,000. Monroe shall give the City prompt

written notice of execution of any Naming Rights Agreement. The obligations set forth in this paragraph shall be secured by the Theatre Improvements Security Instrument and shall survive the Term of the Agreement through such Fifth Anniversary Date and shall be a covenant running with the land binding upon any owner of the Property, or any portion thereof.

The City Funds shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long and to the extent that:

(i) No act or omission which, with the giving of notice or passage of time or both, would give rise to an Event of Default, has occurred and is continuing; and

(ii) The City's obligation to make payments under this Agreement shall not have terminated or been canceled.

The Developer and Monroe acknowledge and agree that the City's obligation to pay for TIF-Funded Improvements is contingent upon the fulfillment of the conditions set forth above and the Developer's incurrence of sufficient rehabilitation costs associated with the Theatre Renovation Project to support such reimbursement. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by the Developer pursuant to Section 4.01 hereof shall increase proportionately.

(c) Green Roof Work Costs. The City and the Developer intend to explore the feasibility of installing a "green roof" on the Building. The Developer agrees to undertake such feasibility studies, structural analyses and engineering reports as may be reasonable to determine whether such installation is feasible and can reasonably be expected to be completed for not more than \$300,000. After such due diligence materials have been prepared, the Developer shall provide the City with copies of such materials and, after both parties' review, each shall promptly advise the other as to whether it believes the installation is feasible and can be reasonably be expected to be completed for no more than \$300,000.

If both parties agree that the green roof is feasible, then Developer shall prepare additional Plans and Specifications covering such work for DPD's review and approval and, following such approval, shall complete such "green roof" installation work. Upon completion of such work, and the City's inspection and approval of such work, the City shall issue the Developer a Partial Completion Certificate covering such work. If one or both parties determine that the green roof is not feasible, then the Developer shall have no further obligation to construct the green roof. In either instance, the Developer shall thereafter be entitled to submit a Requisition Form for the Green Roof Work Cost and the City shall, within thirty (30) days of receipt of the Requisition Form, reimburse the Developer for the Green Roof Work Costs, up to a maximum of \$250,000.

(d) Funds for Payment. The City may use any Bond Proceeds or other legally available funds to make payments due under this Agreement.

(e) Conditional Grant of City Funds. The City Funds provided hereunder are being provided on a conditional basis subject to the Developer's and Monroe's respectively applicable compliance with the requirements of this Agreement.

4.04 Requisition Form. Upon satisfaction of the conditions precedent to payment specified in Section 4.03(b) and for each such specified payment, the Developer shall be entitled to submit to DPD a Requisition Form, along with the documentation described therein and otherwise reasonably requested by DPD. If requested, the Developer shall meet with DPD at the request of DPD to discuss the Requisition Form(s) previously delivered.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "Prior Expenditures"). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of DPD, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$50,000 in the aggregate, may be made without the prior written consent of DPD.

4.06 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.03 hereof, or if the cost of completing the Project exceeds the Project Budget, the Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and of completing the Project.

4.07 Preconditions of Disbursement. Prior to each disbursement of City Funds hereunder by the City, the Developer shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole but good faith discretion. Delivery by the Developer to DPD of any request for disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:

(a) the total amount of the disbursement request represents the actual cost of the actual amount payable to (or paid to) the General Contractor and/or subcontractors and other vendors,

consultants and payees who have performed work on the Theatre Renovation Project (or related to Green Roof Work Costs), and/or their payees;

(b) all amounts shown as previous payments on the current disbursement request have been paid to the parties entitled to such payment;

(c) the Developer has approved all work and materials for the current disbursement request, and such work and materials conform to the Plans and Specifications;

(d) the representations and warranties contained in this Redevelopment Agreement are true and correct and the Developer and Monroe are in compliance with the respectively applicable covenants contained herein;

(e) neither the Developer nor Monroe has received any notice or has any knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens;

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project.

Available Project Funds" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Mezzanine Lender Financing and Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or shall make available (in a manner acceptable to the City), cash in an amount that shall place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made. The Developer may attach any supporting certificate from Monroe as it deems necessary or appropriate in connection with its making of the above certifications and delivering of any Requisition Form.

The City shall have the right, in its discretion, to require the Developer and Monroe to submit such further documentation as may be respectively applicable in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Developer (and, if applicable, Monroe). In addition, the Developer and Monroe shall have satisfied all other respectively applicable preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the Bond Ordinance, if any, the Bonds, if any, the TIF Ordinances and/or this Agreement.

SECTION 5. CONDITIONS PRECEDENT

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

5.01 Project Budget. The Developer has submitted to DPD, and DPD has approved, a Project Budget in accordance with the provisions of Section 3.03 hereof.

5.02 Scope Drawings and Plans and Specifications. The Developer has submitted to DPD, and DPD has approved, the Scope Drawings and Plans and Specifications accordance with the provisions of Section 3.02 hereof.

5.03 Other Governmental Approvals. The Developer has applied for all necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DPD.

5.04 Financing. The Developer and Monroe has each furnished its operating agreement and the Developer has furnished the executed loan documents relating to the Equity, Mezzanine Lender Financing and Lender Financing in the amounts set forth in Section 4.01 establishing that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with other sources set forth in Section 4.01 to complete the Project. The Developer has delivered to DPD a copy of the Escrow Agreement entered into by the Developer regarding the Lender Financing (and, if applicable, the funding of the Equity and Mezzanine Financing). Any liens against the Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

5.05 Title. On the Closing Date, the Developer has furnished the City with a copy of a Title Policy for the Property, certified by the Title Company showing fee simple title to the Hotel Improvements in the Developer and fee simple title to the Theatre Improvements in Monroe, and insuring the second priority junior mortgage liens of the City with respect to the Hotel Improvements and the Theater Improvements. The Title Policy shall be dated as of the Closing Date and contain only those title exceptions listed as Permitted Liens on Exhibit F hereto and evidences the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to a pending disbursements endorsement, an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), location and survey. The Developer has provided to DPD, on or prior to the Closing Date, documentation related to Monroe's purchase of the Property and Monroe's conveyance of the Hotel Improvements to the Developer and copies of all easements and title exception documents.

5.06 Evidence of Clean Title. The Developer, at its own expense, has provided the City with searches under the names of Monroe and the Developer, and, if applicable, any guarantor(s), as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures search
Cook County Recorder	Federal tax search
Cook County Recorder	State tax search
Cook County Recorder	Memoranda of judgments search
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits, judgments and bankruptcy
U.S. Bankruptcy Court	Bankruptcy

showing no liens against the such parties, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens, and no other matters unacceptable to the City.

5.07 Surveys. The Developer has furnished the City with three (3) copies of the Survey.

5.08 Insurance. The Developer and Monroe, at their own expense, have insured their respective portions of the Property in accordance with Section 12 hereof, and delivered certificates required pursuant to Section 12 hereof evidencing the required coverages to DPD.

5.09 Opinion of the Developer's Counsel. On the Closing Date, the Developer and Monroe have each furnished the City with an opinion of counsel, substantially in the form attached hereto as Exhibit I, with such changes as required by or acceptable to Corporation Counsel.

5.10 Evidence of Prior Expenditures. The Developer has provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.05(a) hereof.

5.11 Financial Statements. The Developer has provided the Financial Statements to DPD for the most recent fiscal year, and certified interim financial statements.

5.12 Documentation. The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters.

5.13 Environmental. The Developer has provided DPD with copies of that certain phase I environmental audit completed with respect to the Property and any phase II environmental audit with respect to the Property required by the City. The Developer has provided the City with a letter

from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

5.14 Corporate Documents; Economic Disclosure Statement. The Developer and Monroe has each provided a copy of its Articles of Organization containing the original certification of the Secretary of State of its state of organization; certificates of existence from the Secretary of State of its state of incorporation and all other states in which it is qualified to do business; a manager's or managing member's certificate in such form and substance as the Corporation Counsel may require; the operating agreement for the corporation; and such other organizational documents as may be applicable. The Developer and Monroe have provided to the City all required Economic Disclosure Statements, in the City's then current form, dated as of the Closing Date.

5.15 Litigation. The Developer and Monroe, as applicable, have provided to Corporation Counsel and DPD, a description of all pending or threatened litigation or administrative proceedings involving the Developer, Monroe and, if applicable, any guarantor(s), specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

5.16 Hotel Junior Mortgage. The Developer shall have delivered to the City the Hotel Junior Mortgage (and, if applicable, the Theatre Junior Mortgage) and such financing statements as the City may reasonably require. Notwithstanding the equity requirement imposed under the definitions for such mortgages, such mortgages shall be deemed delivered under this Section 5.16 so long as they are in the form of Exhibit K and such equity requirement is subsequently satisfied at the applicable point in time.

5.17 Landmark Designation. The Developer and Monroe shall have provided written consent to the designation by the City of the Building as a City of Chicago Landmark under the City's Landmark Ordinance and the Developer shall have provided the Landmarks Division of DPD with a preliminary designation report in a form reasonably acceptable to DPD. The features identified in Exhibit E-2 shall be identified as the significant historical features in such preliminary designation report.

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. (a) Except as set forth in Section 6.01(b) below, prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with the City of Chicago, and shall submit all bids received to DPD for its inspection and written approval. (i) For the TIF-Funded Improvements, the Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the

Project in a timely manner. If the Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. The Developer shall submit copies of the Construction Contract to DPD in accordance with Section 6.02 below. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a General Contractor for construction of the Project, the Developer does not solicit bids pursuant to Section 6.01(a) hereof, then the fee of the General Contractor proposed to be paid out of City Funds shall not exceed 10% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of Section 6.01(a) shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

6.02 Construction Contract. Prior to the execution thereof, the Developer shall deliver to DPD a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with Section 6.01 above, for DPD's prior written approval (which shall be limited to determining whether such contract conforms to the requirements of this Agreement), which shall be granted or denied within ten (10) business days after delivery thereof. Within ten (10) business days after execution of such contract by the Developer, the General Contractor and any other parties thereto, the Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

6.03 Performance and Payment Bonds. Prior to the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in a form reasonably acceptable to the City. The City shall be named as obligee or co-obligee on any such bonds.

6.04 Employment Opportunity. The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Section 10 hereof.

6.05 Other Provisions. In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03 (MBE/WBE Requirements, as applicable), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

SECTION 7. COMPLETION OF REHABILITATION

7.01 Certificate of Completion. (a) Final Certificate. Upon completion of the rehabilitation of the Project in accordance with the terms of this Agreement, including, without limitation, the Theatre Renovation Project and occurrence of the Theatre Operations Commencement Date, the Hotel Conversion Project and the Hotel Operations Commencement Date, and compliance with the requirements of Section 8.09 and Section 10, and upon the Developer's written request, DPD shall issue to the Developer a final certificate of completion (the "Final Certificate") in recordable form certifying that the Developer has fulfilled its obligation to complete the rehabilitation work associated with the Project and has commenced operations in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for a Final Certificate within forty-five (45) days by issuing either a Final Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Final Certificate.

(b) Partial Certificates. Prior to the issuance of such Final Certificate, DPD shall issue to the Developer, upon the Developer's written request, Partial Completion Certificates upon completion of the conditions precedent specified in the definition thereof and in Sections 4.03(b) and (c) so long as the City reasonably concludes that upon completion of the Project, the Developer shall have met its obligations under Section 8.09 and Section 10.

7.02 Effect of Issuance of Certificate; Continuing Obligations. The Partial Completion Certificates and Final Certificate issued pursuant to Section 7.01 hereof relate only to the portion(s) of the Project described therein. After the issuance of any such certificate, all remaining executory terms and conditions of this Agreement and all representations and covenants contained herein shall continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the any such certificate hereunder shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

The transfer on ownership restrictions in Sections 8.01(d) and (j) and the covenants in Sections 8.02, 8.20, 8.21, 8.22 and 8.23 shall be covenants that run with the land throughout the Term of the Agreement or such longer period as may be applicable notwithstanding the issuance of any Partial Certificate or a Final Certificate and are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence). However, upon the issuance of a Partial Certificate, the conditions precedent to the issuance of such certificate shall be deemed to have been fulfilled, and upon the issuance of a Final Certificate, the covenants set forth in Section 8.02 (as well as the Developer's obligations under Section 8.09 and Section 10) shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Final Certificate shall be binding only upon the Developer and Monroe, as applicable, or a permitted assignee of such party who, pursuant to Section

18.15 of this Agreement, has contracted to take an assignment of such party's rights under this Agreement and assume such party's liabilities hereunder.

7.03 Failure to Complete. (a) Theatre Renovation Project. If the Developer fails to complete the Theatre Renovation Project (as evidenced by the issuance of the two applicable Partial Completion Certificates by the date set forth under Section 3.01(a), as such date may be extended pursuant to this Agreement) in accordance with the terms of this Agreement, then the City shall have the right to:

(i) terminate this Agreement, cease all disbursement of City Funds not yet disbursed pursuant hereto, and exercise its rights and remedies under the Theatre Improvements Security Instrument (if any has been delivered);

(ii) seek reimbursement from the Developer initially (and, if the Developer does not timely reimburse the City, then from Monroe) if Developer does not make any required payment; and

(iii) unless and until the City has been fully reimbursed by the Developer (or Monroe) for all City Funds previously paid to the Developer, enforce the covenants in Section 8.20 and Section 8.21.

If the Developer completes the Theatre Renovation Project but the Hotel Conversion Project is not completed, then, so long as the requirements of Section 8.09 and Section 10 have been satisfied with respect to the rehabilitation work undertaken, then City's only remedy in such instance shall be to withhold from the Developer the \$1,500,000 payment provided for in Section 4.03(b)(iii). However, if the Developer completes the Theatre Renovation Project, but the Hotel Conversion Project is not completed, and the requirements of Section 8.09 and Section 10 have not been satisfied with respect to the rehabilitation work undertaken, the City shall have both the right to withhold the \$1,500,000 payment and to exercise any remedies set forth in this Section 7.03(a) above.

(b) Hotel Conversion Project. If the Developer fails to complete the Hotel Conversion Project (as evidenced by the issuance the Final Certificate) in accordance with the terms of this Agreement, then the City shall have the right to withhold the \$1,500,000 payment provided for in Section 4.03(b)(iii) and to consent to any change in use of the Hotel Improvements from the use specified in Section 8.21(b). In addition, if the requirements of Section 8.09 and Section 10 have not been satisfied with respect to the rehabilitation work undertaken under this Agreement, the City shall have also have the right to exercise any remedies set forth in this Section 7.03(a).

(c) Failure to Complete Remedies. This Section 7 governs a failure to complete the Theatre Renovation Project, or a failure to complete the Hotel Conversion Project, or a failure to complete both such projects. If both such projects are completed (as evidenced by the issuance of a Final Certificate by the date set forth under Section 3.01(b)), and an Event of Default thereafter occurs, the City's remedies shall be as set forth in Section 15.02, and not as set forth in Section 7.03 above.

7.04 Notice of Expiration of Term of Agreement. Upon the expiration of the Term of the Agreement, DPD shall provide the Developer, at the Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER.

8.01 General. Each of the Developer and Monroe, solely to the extent applicable, severally represent, warrant and covenant as to itself and its activities, as of the date of this Agreement and during the Term of the Agreement, or such longer period as may be expressly provided for herein, that:

(a) it is an Illinois limited liability company, duly organized, validly existing, qualified to do business in its state of organization and Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) it has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) its execution, delivery and performance of this Agreement has been duly authorized by all necessary limited liability company action, and does not and will not violate its Articles of Organization and operating agreement as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which it is now a party or by which the it is now or may become bound;

(d) during the Term of the Agreement, unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, it shall maintain good, indefeasible and merchantable fee simple title to the portion of the Property that it owns (as described in Recital D) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Developer or Monroe, as applicable, is contesting in good faith pursuant to Section 8.15 hereof);

(e) it is now, and for the Term of the Agreement shall remain, solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, or to its knowledge, threatened or affecting it which would materially impair its ability to perform under this Agreement;

(g) it has and shall maintain (or, prior to any applicable construction phase, shall obtain and thereafter maintain) all government permits, certificates and consents (including, without limitation,

building permits and appropriate environmental approvals) necessary to conduct its business and, if applicable, to construct, complete and operate the Project;

(h) it is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money for the Theatre Renovation Project or Hotel Conversion Project, as applicable, to which it is a party or by which it is bound;

(i) any Financial Statements submitted by it are, and when hereafter required to be submitted shall be, complete, correct in all material respects and accurately present its assets, liabilities, results of operations and financial condition, and there has been no material adverse change in its assets, liabilities, results of operations or financial condition since the date of the Developer's most recent Financial Statements;

(j) during the Term of the Agreement, it shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation, except that both Developer and Monroe shall be free to reorganize their company structure so long as at least 51% of each entity's membership interests continue to be held by entities or persons (or Affiliates of such entities or persons) holding such interests as of the date hereof and the parties have the same managing members; (2) directly or indirectly sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or its interest any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except to an Affiliate and as may be permitted under clause (1); (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to its financial condition and ability to perform its obligations under this Agreement;

(k) it has not incurred, and, prior to the issuance of a Final Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the respective portions of the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget.

(l) has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("City Contract") as an inducement for the City to enter into the Agreement or any City Contract with it in violation of Chapter 2-156-120 of the Municipal Code of the City.

8.02 Covenant to Redevelop. Upon DPD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall

redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Bond Ordinance, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Final Certificate.

8.03 Redevelopment Plan. The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

8.04 Use of City Funds. City Funds disbursed to the Developer shall be used by the Developer solely to pay for (or to reimburse the Developer for its payment for) the TIF-Funded Improvements as provided in this Agreement.

8.05 Other Bonds. The Developer and Monroe shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any additional bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements ("Other Bonds"); provided, however, that any such amendments shall not have a material adverse effect on the Developer, Monroe or the Project. The Developer and Monroe shall, at each party's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Other Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto.

8.06 Jobs Covenant. [Intentionally Omitted.]

8.07 Employment Opportunity; Progress Reports. The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 10 hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City when the Project is 25%, 50%, 70% and 100% completed (based on the amount of expenditures incurred in relation to the Project Budget). If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall.

8.08 Employment Profile. The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DPD, from time to time, statements of its employment profile upon DPD's request.

8.09 Prevailing Wage. The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this Section 8.09.

8.10 Arms-Length Transactions. Except as disclosed in the Project Budget, unless DPD has given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work performed, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information identifying any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement, or prior to DPD's payment of any City Funds under this Agreement..

8.11 Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer and Monroe, as applicable, each severally represent, warrant and covenant that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City, the Developer or Monroe with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Developer's business or Monroe's business, the Property or any other property in the Redevelopment Area.

8.12 Disclosure of Interest. The Developer's counsel has no direct or indirect financial ownership interest in the Developer, the Property or any other aspect of the Project.

8.13 Financial Statements. The Developer shall obtain and provide to DPD the Financial Statements for each fiscal year during the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD may request.

8.14 Insurance. The Developer, at its own expense, shall comply with all provisions of Section 12 hereof.

8.15 Non-Governmental Charges. (a) Payment of Non-Governmental Charges. Except for the Permitted Liens, the Developer and Monroe agree to pay or cause to be paid when due any respectively applicable Non-Governmental Charge assessed or imposed upon the Project, the portion

of the Property that it owns or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or the Project; provided however, that if such Non-Governmental Charge may be paid in installments, it may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer and Monroe, as applicable, shall furnish to DPD, within thirty (30) days of DPD's request, official receipts from the appropriate entity, or other proof satisfactory to DPD, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. Each of the Developer and Monroe, as applicable, has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the portion of the Property that it owns (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend its covenant to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

(ii) at DPD's sole option, to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

8.16 Developer's Liabilities. Neither the Developer nor Monroe, as applicable, shall enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities hereunder or perform any of its material obligations hereunder. Each of the Developer and Monroe, as applicable, shall immediately notify DPD of any and all events or actions which may materially affect its ability to carry on its business operations upon the Property or perform its obligations under this Agreement.

8.17 Compliance with Laws. The Property and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Property, including, without limitation, any applicable sprinkler requirements and the requirements of the consent decree (as the same may be lawfully amended or modified from time to time) entered in City of Chicago v. Shubert Niderlander of Chicago, Inc., Case No. 98 M1 400085 in the Circuit Court of Cook County. Upon the City's request, the Developer and Monroe shall provide evidence satisfactory to the City of such

compliance.

8.18 Recording and Filing. The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the Closing Date in the Recorder's Office of Cook County. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.19 Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. Each of the Developer and Monroe agrees to pay or cause to be paid when due all respectively applicable Governmental Charges (as defined below) which are assessed or imposed upon the portion of the Property or the Building that it owns, or become due and payable, and which create, may create, a lien upon it or such portion of the Property or the Building. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, Monroe, the Property or the Building including but not limited to real estate taxes.

(ii) Right to Contest. Each of the Developer and Monroe, as applicable, has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property, or any applicable portion thereof. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's or Monroe's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer or Monroe, as applicable, has given prior written notice to DPD of its intent to contest or object to a Governmental Charge and, unless, at DPD's sole option,

(i) each of the Developer and Monroe, as applicable, shall demonstrate to DPD's satisfaction that legal proceedings instituted by it contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(ii) each of the Developer and Monroe, as applicable, shall furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property, or any applicable portion thereof, during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) Developer's Failure To Pay Or Discharge Lien. If the Developer or Monroe fails to pay any Governmental Charge or to obtain discharge of the same, it shall advise DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer or Monroe under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DPD by the party that failed to make such payment. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if either the Developer or Monroe fails to pay any Governmental Charge, the City, in its sole discretion, may require such party to submit to the City audited Financial Statements at the such party's own expense.

8.20 Public Benefits Program. After the Closing Date and at all times prior to the Fifth Anniversary Date, Monroe and/or the Developer, as applicable, shall provide the public benefits described on Exhibit L.

8.21 Restrictive Covenant Regarding Building Use. After the Closing Date and at all times prior to the Fifth Anniversary Date, (a) the primary uses of the Theatre Improvements shall be limited to Theatre Uses, and (b) the primary use of the Hotel Improvements shall be limited to a unionized nightly rate or extended-stay hotel described on Exhibit M or another similar hotel acceptable to DPD, in its reasonable discretion, but which may not include a non-unionized hotel or a hotel-condominium, time share hotel, or similar ownership and operational structure, unless DPD, in its sole discretion, consents to such an ownership and operational structure). Accessory and ancillary uses necessary to support these primary uses shall also be permitted. Interim use of the Hotel Improvements for existing office use prior to the commencement of the Hotel Conversion Project shall also be permitted. These use restrictions shall be a restrictive covenant on the Property that runs with the land, binding upon any transferee (including any transferee who takes title to the Property pursuant to a foreclosure or deed in lieu of foreclosure), and shall apply to the Hotel Improvements even if the Hotel Conversion Project is not undertaken.

8.22 Operations Covenant. (a) Theatre Operations. From the Theatre Operations Commencement Date and thereafter at all times prior to the Fifth Anniversary Date, Monroe shall continuously operate and stage Theatrical Productions, as more particularly described in the next

sentence. Because of the nature of staging Theatrical Productions, Monroe shall be deemed to be continuously operating and staging Theatrical Productions so long as the Shubert Theatre is not "dark" and unutilized for Theatrical Productions for a period in excess of (a) any eighteen (18) consecutive weeks during any rolling twelve (12) month period, or (b) more than 300 days in any rolling twelve (12) month period.

(b) Hotel Operations. From the Hotel Operations Commencement Date and thereafter at all times prior to the Fifth Anniversary Date, the Hotel Improvements shall be continuously operated as a hotel.

8.23 Naming Rights Agreement. Monroe represents and warrants that it has made available to the City for its review a true, complete and correct copy of the agreement, as it exists as of the date hereof, between Monroe and Broadway concerning naming rights and certain other business matters relating to Broadway's operations (the "Broadway Agreement"). The Broadway Agreement entitles Broadway to all proceeds arising from any agreement in the nature of a Naming Rights Agreement. One or more Nederlander-related persons or entities (which also, or through their Affiliates, are the sole owners of Monroe) are the 50% owner in Broadway and as such are entitled to 50% of any naming rights distributions arising under the Broadway Agreement with respect to the Property, the Building or the Shubert Theatre. If at any time after the Closing Date and prior to the Fifth Anniversary Date, the Nederlander owners, Monroe, the Developer or any Affiliate of or person employed by any of the foregoing becomes entitled to more than 50% of the distributions under the Broadway Agreement (such distributions in excess of the existing 50% threshold, the "Additional Distributions"), the City shall be entitled to 50% of all such Additional Distributions. Monroe and the Developer acknowledge and agree that the City's agreement to the Naming Rights Agreement provisions contained elsewhere in this Agreement have been based on the premise that Monroe and its Affiliates are only entitled to 50% of the distributions under the Broadway Agreement.

Except for the City's right to (a) receive a copy of any Naming Rights Agreement and related payment, (b) review of the Plans and Specifications applicable to any signage, and (c) approve the name, which approval shall be limited solely to DPD's determination, to be provided in the exercise of DPD's reasonable and good faith discretion, that the name is tasteful (the parties acknowledging and agreeing that the name need not include the word "Shubert") the City shall not have any right to approve the Naming Rights Agreement.

8.24 Survival of Covenants. All warranties, representations, covenants and agreements contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's and Monroe's execution of this Agreement, as applicable, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Final Certificate) shall be in effect throughout the Term of the Agreement or such other period as may be expressly provided for in this Section 8.

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

9.01 General Covenants. The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02 Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 Employment Opportunity. The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer performing the Project construction work on the Property (collectively, with the Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of

the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this Section 10.01 shall be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof.

10.02 City Resident Construction Worker Employment Requirement. The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

“Actual residents of the City” shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

The Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are

employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DPD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

At the direction of DPD, affidavits and other supporting documentation shall be required of the Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project Budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether the Developer must surrender damages as provided in

this paragraph. The damages determined and surrendered pursuant to this paragraph shall be the City's sole remedy for a breach of the City resident hiring requirement set forth in this Section 10.02.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

The Developer shall cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Project.

10.03 The Developer's MBE/WBE Commitment. The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate its General Contractor to agree that, during the Project:

a. Consistent with the findings which support the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "MBE/WBE" Program"), Section 2-92-420 *et seq.*, Municipal Code of Chicago, as applicable at the time of City Council introduction, and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget attached as Exhibit G-2 (as these budgeted amounts may be revised to reflect the actual costs), shall be expended for contract participation by MBEs or WBEs:

- i. At least 25 percent by MBEs.
- ii. At least 5 percent by WBEs.

b. For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "contract" as such terms are defined in Section 2-92-420, Municipal Code of Chicago.

c. Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer), or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as a General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and

a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03.

d. Until a Final Certificate is issued, the Developer shall deliver quarterly reports to DPD during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include inter alia the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist DPD in determining the Developer's compliance with this MBE/WBE commitment. DPD shall have access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with Section 14 of this Agreement, on five (5) business days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

e. Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer shall be obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this Subsection (e), the disqualification procedures are further described in Section 2-92-540, Municipal Code of Chicago.

f. Prior to the commencement of the Project, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Section 10.03. During this meeting, the Developer shall demonstrate to DPD its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by DPD. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of DPD, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

SECTION 11. ENVIRONMENTAL MATTERS

The Developer (as to the Project) and Monroe (as to the Theater Renovation Project only) hereby represent and warrant to the City that it has conducted (or will conduct prior to commencing work on the applicable portion of the Project) environmental studies sufficient to conclude that such portion of the Project may be constructed, completed and operated in accordance with all applicable Environmental Laws and this Agreement and all Exhibits attached hereto, the Scope Drawings, Plans and Specifications and all amendments thereto, the Bond Ordinance and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer and Monroe each severally agree, solely to the extent applicable, to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property owned by the applicable indemnitor, or (B) any other real property in which the applicable indemnitor, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the portion of the Property owned by the applicable indemnitor permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the applicable indemnitor under any Environmental Laws relating to the Property.

SECTION 12. INSURANCE

The Developer (with respect to the Hotel Improvements) and Monroe (with respect to the Theatre Improvements, unless Monroe and the Developer elect to have the Developer provide and maintain such insurance on Monroe's behalf) shall provide and maintain, or cause to be provided, at its own expense, during the Term of the Agreement (or as otherwise specified below), the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement and Throughout the Term of the Agreement

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this

Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. coverages shall include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(b) Construction

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following Project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor shall provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory bases.

(iv) Railroad Protective Liability Insurance

If applicable, when any work is to be done adjacent to or on railroad or transit property, Contractor shall provide, or cause to be provided with respect to the operations that the Contractor performs, Railroad Protective Liability Insurance in the name of the railroad or transit entity. The policy shall have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) Builders Risk Insurance

When the Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Project under the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creations and reconstruction of such records.

(viii) Contractor's Pollution Liability

When any remediation work is performed which may cause a pollution exposure, contractor's Pollution Liability shall be provided with limits of not

less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the policy retroactive date must coincide with or precede, start of work on the Project under the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of one (1) year. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(c) Term of the Agreement

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance shall be maintained in the amount of the full replacement value of the Property. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments shall be maintained in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.

(d) Other Requirements

To the extent required under this Section 12 above and to the extent applicable to the Developer and Monroe, said parties shall furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the Term of the Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from the Developer or Monroe, as applicable, shall not be deemed to be a waiver by the City. The Developer and Monroe, as applicable, shall each advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer or Monroe of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to suspend this Agreement until proper evidence of insurance is provided.

The insurance shall provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer or Monroe, as applicable.

The Developer and Monroe, as applicable, each expressly understands and agrees that its insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The Developer and Monroe, as applicable, each expressly understands and agrees that any coverages and limits furnished by it shall in no way limit its liabilities and responsibilities specified within the Agreement documents or by law.

The Developer and Monroe, as applicable, each expressly understands and agrees that its insurance is primary and any insurance or self insurance programs maintained by the City of Chicago shall not contribute with insurance provided by the Developer or Monroe, as applicable, under the Agreement.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

The Developer shall require the General Contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the General Contractor, or subcontractors. All General Contractors and subcontractors shall be subject to the same requirements (Section (d) hereof) of Developer and Monroe, as applicable, unless otherwise specified herein.

If the Developer, Monroe, the General Contractor or any subcontractor desires additional coverages, the Developer, Monroe, the General Contractor and any subcontractor, as applicable, shall be responsible for the acquisition and cost of such additional protection.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as any such change does not increase these requirements and Developer and Monroe are provided written notice thereof.

SECTION 13. INDEMNIFICATION

13.01 General Indemnity. Developer and Monroe severally, solely to the extent applicable, severally (i.e., each indemnitor agrees to provide an indemnity with respect to its own acts and omissions only) agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages,

penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

(i) its failure to comply with any of the respectively applicable terms, covenants and conditions contained within this Agreement; or

(ii) its failure to pay any general contractor, subcontractors or materialmen retained by it in connection with the TIF-Funded Improvements or any other Project improvement, if applicable; or

(iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by it or its Affiliates, if applicable, or any agents, employees, contractors or persons acting under the control or at the request of it or its Affiliates; or

(iv) its failure to cure any applicable misrepresentation in this Agreement or any other agreement relating hereto;

provided, however, that neither the Developer nor Monroe shall have any obligation to an Indemnitee arising from the wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, the Developer and Monroe, to the extent applicable, shall contribute the maximum portion that it is permitted to pay and satisfy under the applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this Section 13.01 shall survive the termination of this Agreement.

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

14.01 Books and Records. The Developer and Monroe shall, to the extent applicable, keep and maintain complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project and the parties' compliance with their ongoing covenants. All such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be

available at the Developer's offices, or Monroe's offices, as applicable, for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's or Monroe's expense, as applicable. The Developer and Monroe, as applicable, shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into with respect to the Project.

14.02 Inspection Rights. Upon three (3) business days' notice, any authorized representative of the City shall have access to all portions of the Project and the Property during normal business hours for the Term of the Agreement.

SECTION 15. DEFAULT AND REMEDIES

15.01 Events of Default. The occurrence of any one or more of the following events, subject to the provisions of Section 15.03, shall constitute an "Event of Default" hereunder, entitling the City to exercise the applicable remedies specified in Section 15.02:

(a) the failure of the Developer or Monroe, as applicable, to perform, keep or observe any of its respective covenants, conditions, promises, agreements or obligations under this Agreement or any related agreement;

(b) the failure of the Developer or Monroe, as applicable, to perform, keep or observe any of its respective covenants, conditions, promises, agreements or obligations under any other agreement with any person or entity if such failure may have a material adverse effect on such party's business, property, assets, operations or condition, financial or otherwise;

(c) the making or furnishing by the Developer or Monroe, as applicable, to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, or any portion thereof, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against the Developer or Monroe, or for the liquidation or reorganization of the Developer or Monroe, as applicable, or alleging that the Developer or Monroe, as applicable, is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's or Monroe's debts, as applicable, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer or Monroe, as applicable; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of

Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for the Developer or Monroe, as applicable, for any substantial part of the Developer's or Monroe's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of the Developer or Monroe, as applicable; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any judgment or order against the Developer or Monroe, as applicable, which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing, which default is not cured within any applicable cure period;

(i) the dissolution of the Developer or Monroe, as applicable; or

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer or Monroe, as applicable, or any natural person who directly or indirectly owns 10% or more of the Developer's or Monroe's membership interests (a "10% Owner"), which is not dismissed within thirty (30) days, or the indictment of the Developer, Monroe or such a 10% Owner for any crime (other than a misdemeanor);or

(k) during the Term of the Agreement, the sale or transfer of a majority of the ownership interests of the Developer or Monroe without the prior written consent of the City, to any person or entity other than to Monroe, the Developer or any Affiliate of either.

15.02 Remedies. (a) Termination and Equitable Remedies. Upon the occurrence of any Event of Default by either Monroe or the Developer City may terminate this Agreement and all related agreements. The City may, also in any court of competent jurisdiction by any action or proceeding in equity, pursue and secure any available equitable remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein.

(b) Reimbursement Events. If the Event of Default is a Reimbursement Event, the City shall also have the right to recapture all City Funds previously paid under this Agreement, regardless of whether it is the act or omission of the Developer, Monroe, or both the Developer and Monroe that gives rise to such Reimbursement Event.

(c) Key Covenants. In addition, with respect to the covenants specified below, the City shall

have the following remedies:

- (i) for an Event of Default relating to Section 8.20, the City shall be entitled to the specific performance of the intended public benefits or, if such specific performance is impracticable, the City shall be entitled to liquidated damages in the amount of \$20,000;
- (ii) for an Event of Default relating to Section 8.21, the City shall be entitled to the specific performance of the intended use, or if such specific performance is impracticable, the City shall be entitled to enjoin any unpermitted use unless DPD, in its sole discretion, consents in writing to such otherwise unpermitted use;
- (iii) for an Event of Default relating to Section 8.22(a), the City shall be entitled to recover \$4,000,000 from Monroe;
- (iv) for an Event of Default relating to Section 8.22(b), the City shall be entitled to recover \$1,500,000 from the Developer; and
- (v) for an Event of Default relating to the Naming Rights Agreement-related reimbursement obligation specified in Section 4.03(b) or relating to the Naming Rights Agreement obligation described in Section 8.23, the City shall be entitled to recover the amount due and payable under such provisions from Monroe.

(d) Other Provisions. For an Event of Default arising under any other provision of this Agreement not addressed in Sections 15.02(b) or (c), the City, in addition to the remedies provided for in Section 15.02(a), shall also have the right to recover any costs or actual monetary damages incurred by the City as a result of such Event of Default from the party whose acts or omissions gave rise to such Event of Default. For example, if the Theatre Improvements are not maintained in accordance with applicable laws and codes in accordance with Section 8.17 giving rise to an unsafe condition, or taxes payable with respect to the Theatre Improvements are not paid pursuant to Section 8.19, and the City incurs costs to correct such unsafe condition or pays such taxes, the City would be able to recover all such costs from Monroe. Nothing in this Section 15.03(d), however, shall authorize the City to take any action with respect to the Property if such action is not otherwise authorized under applicable law, unless necessary due to emergency conditions or to protect public health and safety.

(e) Security Instruments. The City, in seeking to collect amounts payable by the Developer under this Section 15, solely to the extent that the Event of Default relates to the Hotel Conversion Project, shall also be entitled to foreclose the Hotel Junior Mortgage to collect such amounts. The City, in seeking to collect amounts payable by Monroe under this Section 15, solely to the extent that

the Event of Default relates to the Theatre Renovation Project, shall also be entitled to exercise its rights under the Theatre Improvements Security Instrument to collect such amounts.

(f) Application of Section 15 Remedies. This Section 15.02 sets forth the City remedies that are applicable only if an Event of Default occurs after the issuance of a Final Certificate. If an Event of Default occurs prior to issuance of a Final Certificate, then the City's remedies shall be as set forth in Section 7.03 and not as set forth in this Section 15.02.

15.03 Curative Period. A mortgagee of an Existing Mortgage (as defined in Section 16 of this Agreement) shall have the same rights, but not the obligations, to cure an Event of Default that the Developer has under this Section 15.03. In the event the Developer or Monroe has breached a representation and warranty or failed to perform a covenant which it is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the defaulting party and, if applicable, the mortgagee of an Existing Mortgage (as defined in Section 16 of this Agreement) has failed to cure such breach or failure within thirty (30) days following its receipt of a written notice from the City specifying that it has breached such representation or warranty or failed to perform such covenant; provided, however, with respect to any default that is not curable through the payment of money and is otherwise not reasonably capable of being cured within such thirty (30) day period, the Developer or Monroe shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default and the same is cured within an additional ninety (90) day period, or, in the event of a casualty only, such longer period as may be appropriate, as reasonably determined by the City.

Notwithstanding anything in the above paragraph (and in contravention of such paragraph) or elsewhere in the Agreement, a breach of Section 8.21(a) or (b) or Section 8.22(a) or (b) shall, without any notice or cure period, constitute an immediate Event of Default.

15.04 Defeasance of Agreement. The Developer shall have the right at any time during the Term of the Agreement to defease this Agreement and obtain a termination and release hereof by repaying to the City an amount equal to all City Funds received by the Developer prior to such defeasance amount, plus any other amounts due and payable hereunder, if any, as of the date of such defeasance. In addition, the Developer shall have the right to pay the City \$1,500,000 and thereby obtain a release of the Hotel Junior Mortgage (and the corresponding Redevelopment Agreement covenants that run with the land), and either the Developer or Monroe shall have the right to pay the City \$4,000,000 and thereby obtain a release of the Theatre Junior Mortgage (and the corresponding Redevelopment Agreement covenants that run with the land).

15.05 Reinstatement. If the City, in exercising its rights under this Agreement or under either of the junior mortgages provided for hereunder, commences (or joins in) foreclosure proceedings, and if the Developer or Monroe, as applicable, prior to the entry of a judgment of foreclosure,

thereafter pays any amount due and performs all obligations required to cure the Event of Default giving rise to the City's exercising such foreclosure rights, then the City, upon receipt of all such amounts due (including fees and expenses incurred by the City in connection with such foreclosure proceeding) and evidence of such full performance, shall dismiss (or join in the dismissal) of such foreclosure proceeding. Upon such dismissal, the parties shall be restored to their prior positions under this Agreement (and any such junior mortgage(s)) and the Agreement (and such junior mortgage(s)) shall continue in full force and effect.

15.06 Tax Credit Lease. The City acknowledges that, pursuant to Section 4.01 hereof, the Developer and Monroe have reduced their debt financing for the Project by raising equity through the sale of historic tax credits as allowed and contemplated by this Agreement. In that connection, the Developer, as owner and landlord of the Hotel Improvements, has entered into a lease (the "Hotel Tax Credit Lease") with Northern Majestic Hotel, LLC, as tenant and master lessee (the "Hotel Tenant"), and joined in by Chevron TCI, Inc. (The "Tax Credit Investor") and by LaSalle Bank National Association, the lender. Similarly, Monroe, as owner and landlord of the Theater Improvements, has entered into a lease (the Theater Tax Credit Lease") with 22 West Monroe Theater, LLC, as tenant and master lessee (the "Theater Tenant"), and joined in by the Tax Credit Investor and by LaSalle Bank National Association (the Hotel Tax Credit Lease and the Theater Tax Credit Lease may be collectively referred to herein as the "Tax Credit Leases"). The Tax Credit Leases were formed to facilitate historic tax credit investments by the Tax Credit Investor, which has an equity interest in the Hotel Tenant and Theater Tenant.

Accordingly, notwithstanding the provisions of Section 15.02(e) hereof, if an Event of Default is deemed to have occurred following opportunity to cure pursuant to Section 15.03 hereof, the Tax Credit Investor shall have an opportunity, but not an obligation, to cure or cause the cure of said default. Therefore, the City shall not file an action to foreclose on the Hotel Junior Mortgage, nor on the Theater Junior Mortgage, unless the Tax Credit Investor fails to commence or cause the commencement of a cure within sixty (60) days following the initial thirty (30) day period provided by Section 15.03, fails to proceed diligently thereafter to achieve a cure, or has not achieved a cure within one hundred twenty (120) days following said initial thirty (30) day period (the "Tax Credit Cure Period").

Prior to expiration of the Tax Credit Cure Period, and thereafter if the Event of Default is cured within the Tax Credit Cure Period, the City shall not disturb the Hotel Tenant's possession nor the Theater Tenant's possession, respectively under the Tax Credit Leases and neither of said leases shall be impaired or terminated by the City.

The City shall use commercially reasonable efforts to deliver a copy of the written notice described in Section 15.03 to the Tax Credit Investor (in addition to the notices required by Section 15.03 hereof to be sent to the Developer, Monroe and mortgagees under an Existing Mortgagee). The City's failure, if any, to deliver said notice shall not constitute default by the City under this Agreement. Notices to the Tax Credit Investor are to be sent to Chevron TCI, Inc. at 345 California

Street, 30th Floor, San Francisco, CA 94104, Attention: John H. Medinger, with a copy to Holland & Knight LLP, 10 St. James Place, Boston, MA 02116, Attention: Harry S. Dannenberg, Esq.

SECTION 16. MORTGAGES

All mortgages in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit F hereto and are referred to herein as the Existing Mortgages.” Any mortgage that hereafter is executed and recorded against the Property or any portion thereof is referred to herein as a New Mortgage.” Any New Mortgage executed and recorded with the prior written consent of the City is referred to herein as a Permitted Mortgage.” It is hereby agreed by and between the City, the Developer and Monroe as follows:

(a) In the event that a mortgagee or any other party shall succeed to the Developer’s or Monroe’s interest in the Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer’s interest or Monroe’s interest hereunder in accordance with Section 18.15 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer or Monroe for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement (e.g., the City shall have no obligation to pay the New Mortgagee any City Funds), but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to the Developer’s or Monroe’s interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer’s or Monroe’s interest hereunder in accordance with Section 18.15 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of “the Developer” hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer’s interest under this Agreement, such party has no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible therefor. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer’s interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to the Developer of a Final Certificate pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DPD.

SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) overnight courier, or (c) registered or certified mail, return receipt requested, postage prepaid:

If to the City:	City of Chicago Department of Planning and Development 121 North LaSalle Street, Room 1000 Chicago, Illinois 60602 Attention: Commissioner
With Copies To:	City of Chicago Department of Law Finance and Economic Development Division 121 North LaSalle Street, Room 600 Chicago, Illinois 60602
If to the Developer, Monroe, or both:	Shubert Hotel Associates, LLC c/o Northern Realty Group 33 N. Dearborn, Suite 1200 Chicago, Illinois 60602 Attention: Michael Tobin
And to:	Monroe Presentations, LLC 22 West Monroe Street, Suite 700 Chicago, Illinois 60603 Attention: Louis F. Raizin
With copies to:	John George, Esq. Daley & George 20 S. Clark Street Chicago, Illinois 60602 Richard Wendy, Esq. Piper Rudnick, LLP

203 N. LaSalle Street
Chicago, Illinois 60601

LaSalle Bank National Association
Suite 1225
135 South LaSalle Street
Chicago, Illinois 60603
Attention: Manager, Real Estate Administration
Fax: 312-904-6691

LaSalle Bank National Association
Suite 1225
135 South LaSalle Street
Chicago, Illinois 60603
Attention: Group Head, Commercial Real Estate
Fax: 312-904-6691

Jenner & Block LLP
One IBM Plaza
Chicago, Illinois 60611
Attention: Donald I. Resnick, Esq.
Fax: 312-840-7656

And to: Chevron TCI, Inc.
345 California Street, 30th Floor
San Francisco, CA 94104
Attention: John H. Medinger

With copies to: Holland & Knight LLP
10 St. James Place
Boston, MA 02116
Attention: Harry S. Dannenberg, Esq.

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to clause (a) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (b) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (c) shall be deemed received two (2) business days following deposit in the mail.

SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement Exhibit D hereto without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this Section 18.01 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental or construction obligations of Developer or Monroe (including those set forth in Sections 10.02 and 10.03 hereof) by more than five percent (5%) or materially changes the character of the Project or any activities undertaken by Developer or Monroe, as applicable, affecting the Property, the Project, or both, or increases any time agreed for performance by the Developer by more than one hundred twenty (120) days, or materially and adversely reduces or limits the City's exercise of the rights and remedies provided for under Sections 4.03(b), 7.03, 15.02 or 15.03.

18.02 Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

18.03 Limitation of Liability. No member, official or employee of the City shall be personally liable to the Developer or Monroe, as applicable, or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

18.04 Further Assurances. The Developer and Monroe, as applicable, each agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

18.05 Waiver. Waiver by the City, the Developer or Monroe, as applicable, with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by such party in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any

course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

18.06 Remedies Cumulative. The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07 Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

18.08 Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

18.09 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

18.10 Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances and/or the Bond Ordinance, if any, such ordinance(s) shall prevail and control.

18.12 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

18.13 Form of Documents. All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City. Except for signatures on recorded documents, signature by facsimile is hereby authorized and shall have the same legal effect as an original signature.

18.14 Approval. Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the

Mayor of the City shall act for the City or DPD in making all approvals, consents and determinations of satisfaction, granting the Partial Completion Certificates or the Final Certificate, or otherwise administering this Agreement for the City.

18.15 Assignment. The Developer or Monroe, as applicable, may assign this Agreement, except that prior to the issuance by the City to Developer of the Final Certificate neither Developer nor Monroe may sell, assign or otherwise transfer its interest in this Agreement in whole or in part except to an Affiliate without the written consent of the City. Notwithstanding the foregoing, either the Developer or Monroe may collaterally assign its respective interests in this Agreement to a lender providing Lender Financing which has been identified to the City as of the Closing Date. Any successor in interest to the Developer or Monroe under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including, but not limited to, Sections 4.03(b) (Naming Rights Agreement), 8.19 (Real Estate Provisions), 8.20 (Public Benefits), 8.21 (Restrictive Covenant Regarding Building Use), 8.22 (Operations Covenant), 8.23 (Naming Rights Agreement) and 8.24 (Survival of Covenants) hereof, for the Term of the Agreement. The Developer and Monroe consent to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.16 Binding Effect. This Agreement shall be binding upon, to the extent applicable, the Developer, Monroe, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of such parties and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties, other than as provided herein with respect to permitted successors and permitted assigns, any remedy, claim, right of reimbursement or other right.

18.17 Force Majeure. Neither the City, the Developer nor Monroe, as applicable, shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above. General economic conditions that may impact theater and hotel business operations are not covered by this Section 18.17.

18.18 Exhibits. All of the exhibits attached hereto are incorporated herein by reference.

18.19 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if the Developer is required to provide notice under the WARN Act, the Developer and Monroe, as applicable, shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer and Monroe, as applicable, has locations in the State. Failure by the Developer and Monroe, as applicable, to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

18.20 Venue and Consent to Jurisdiction. If there is a lawsuit under this Agreement, each party may hereto agree to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

18.21 Costs and Expenses. In addition to and not in limitation of the other provisions of this Agreement, Developer and Monroe, as applicable, agree to pay upon demand the City's out-of-pocket expenses, including attorney's fees, incurred in connection with the enforcement of the provisions of this Agreement against such party. This includes, subject to any limits under applicable law, attorney's fees and legal expenses, whether or not there is a lawsuit, including attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services. Developer and Monroe, as applicable, also shall pay any court costs, in addition to all other sums provided by law.

18.22 Business Relationships. The Developer and Monroe acknowledge (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that it has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer and Monroe each hereby represent and warrant that, to the

best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

[Three large, curved, handwritten scribbles or lines crossing the page diagonally.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

SHUBERT HOTEL ASSOCIATES LLC
an Illinois limited liability company

By: Northern Shubert Hotel Associates LLC, its Manager

By: Northern Realty Investment Fund I, LLC, its
Manager

By: 
Michael A. Tobin, its Manager

MONROE PRESENTATIONS L.L.C.
an Illinois limited liability company

By: Laurence Amusement LLC, its Manager

By: _____
James L. Nederlander, its Manager

CITY OF CHICAGO, acting by and through its
Department of Planning and Development

By: _____
Lori Healey
Acting Commissioner

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

SHUBERT HOTEL ASSOCIATES LLC
an Illinois limited liability company

By: Northern Shubert Hotel Associates LLC, its Manager

By: Northern Realty Investment Fund I, LLC, its
Manager

By: _____
Michael A. Tobin, its Manager

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By: _____
James L. Nederlander, its Manager

CITY OF CHICAGO, acting by and through its
Department of Planning and Development

By: _____
Lori Healey
Acting Commissioner

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

SHUBERT HOTEL ASSOCIATES, LLC
an Illinois limited liability company

By: Northern Shubert Hotel Associates LLC, its
managing member

By: Northern Realty Investment Fund I, LLC, its
managing member

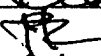
By: _____
Michael A. Tobin
Its: Manager

MONROE PRESENTATIONS, LLC
an Illinois limited liability company

By: Laurence Amusement, LLC
a Delaware limited liability company
its managing member

By: _____
James Nederlander, its manager

CITY OF CHICAGO, acting by and through its
Department of Planning and Development

By: Lori S. Healey
Lori Healey 
Acting Commissioner

STATE OF NEW YORK)
) ss
COUNTY OF New York)

I, David Malkin, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that James L. Nederlander, personally known to me to be the manager of Laurence Amusement LLC, a Delaware limited liability company (the "Manager"), the manager of Monroe Presentations L.L.C., an Illinois limited liability company (the "Monroe"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument, pursuant to the authority given to him by members of the Manager, as his free and voluntary act and as the free and voluntary act of the Manager and Monroe, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 19 day of October, 2005.


Notary Public 02MA 4631366

My Commission Expires 02/28/2007

(SEAL)

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, Lauri A. Neely, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Lori Healey, personally known to me to be the Acting Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed, sealed, and delivered said instrument pursuant to the authority given to her by the City, as her free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 30th day of SEPTEMBER, 2005.


Notary Public

My Commission Expires 6-5-07